



**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

Caption in compliance with D.N.J. LBR 9004-2(c)

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In re:

BERGENFIELD SENIOR HOUSING, LLC,

Debtor.

Case No.: 13-19703-MS

Chapter 11

Judge: Morris Stern, U.S.B.J.

**ORDER (I) APPROVING BID PROCEDURES FOR THE SALE OF
SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS AND (II) APPROVING
THE FORM AND SCOPE OF NOTICE OF THE BID PROCEDURES**

The relief set forth on the following page, numbered two (2) through six (6), is
hereby **ORDERED**.

7/30/13

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THIS MATTER having been opened to the Court by above-captioned debtor and debtor-in-possession, Bergenfield Senior Housing, LLC (the "Debtor"), through its counsel, McElroy, Deutsch, Mulvaney & Carpenter, LLP, upon Motion for Entry of an Order (I) Approving Bid Procedures for the Sale of Substantially All of the Debtor's Assets and (II) Approving the Form and Scope of Notice of the Bid Procedures (the "Motion")¹; and the Court finding that (a) it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A); and (c) notice of the Motion was good and sufficient under the circumstances; and the court having considered the moving papers, the objections thereto, if any, and the arguments of counsel, if any; and good and sufficient notice of the Motion having been provided, and good cause appearing for the entry of this Order, the Court hereby makes the following findings of fact:

1) The Debtor has articulated good and sufficient reasons for this Court to grant the relief requested in the Motion, including without limitation, (i) approval of the Bid Procedures, as modified herein (the "Modified Bid Procedures"), and the sale process established thereby and (ii) approval and authorization to serve and advertise the Sale Notice.

2) The Modified Bid Procedures provide for an open and fair sale process, and are an appropriate exercise of the Debtor's reasonable business judgment.

¹ Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion.

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- 3) The Modified Bid Procedures are reasonably designed, given the circumstances and nature of this case, to test the market so as to maximize value for the Debtor's estate and its creditors.
- 4) The Sale Notice is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Modified Bid Procedures and the sale process contemplated thereby.
- 5) The entry of this Order and the granting of the relief provided herein is in the best interests of the Debtor, its estate, creditor, and other parties-in-interest.

Accordingly, it is hereby **ORDERED** as follows:

A. The Bid Procedures as attached to the Application in support of the Motion, and as modified herein, are APPROVED and the terms thereof are incorporated herein as if fully set forth herein and shall apply with respect to the proposed sale of the Property. The Debtor is authorized to take all actions necessary or appropriate to implement the Modified Bid Procedures. Notwithstanding the foregoing, the Bid Deadline, as established in section 10 of the Bid Procedures, shall be October 7, 2013, rather than 45 days after entry of this Order as originally proposed.

B. The Debtor will, within forty-eight (48) hours, following entry of this Order, consider input from SM Global Group, LLC ("SM Global") with respect the timing, cost, duration, and date(s) of publication for the sale of the Property in the publications referenced in the Motion, as well as for additional print and/or electronic media advertising in sources beyond those publications referenced in the Motion. The

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Debtor and SM Global will attempt to reach agreement with each other and with Boiling Springs Savings Bank ("Boiling Springs") for the details of such advertising and an appropriate advertising budget. If a consensual resolution cannot be reached among the Debtor, SM Global, and Boiling Springs, counsel for the Debtor or SM Global will so advise the Court, and the Court will schedule a hearing on shortened notice with counsel for the Debtor, Boiling Springs and SM Global.

C. Pursuant to Bankruptcy Rule 6004(f)(1), the Debtor is authorized to conduct an Auction in respect of the Property pursuant to the terms and conditions set forth in the Modified Bid Procedures. If Qualified Bids are received by the Debtor in accordance with the Modified Bid Procedures, the Auction shall take place as set forth in the Modified Bid Procedures.

D. The Auction will be conducted openly and all creditors of the Debtors are permitted to attend.

E. The Debtor is authorized to modify and/or extend the deadlines set forth in the Modified Bid Procedures, including those set forth in the form of Asset Purchase Agreement, as the Debtor may deem warranted in its reasonable business judgment.

F. The form and scope of the Sale Notice attached to the Application in support of the Motion is reasonable and appropriate and is hereby APPROVED and incorporated herein as if fully set forth herein.

G. The Debtor is hereby authorized and directed to serve copies of this Order, the Modified Bid Procedures and the Sale Notice, in substantially the form attached to the Application in support of the motion, on: (a) the U.S. Trustee, (b) counsel to Boiling

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Springs Savings Bank; (c) all parties entitled to receive notice in these Cases pursuant to Bankruptcy Rule 2002; (d) all entities known by the Debtor to have asserted any lien, claim, interest, or encumbrance in or on the Property, (e) all parties on the Debtor's mailing matrix, including, without limitation, all known creditors of the Debtors, (f) all counterparties to executory contracts and unexpired leases of the Debtor, (g) the Internal Revenue Service and all state/local taxing authorities in jurisdictions where the Debtor has or may have any tax liability; and (h) all persons who have expressed an interest in acquiring the Property within the last twelve (12) months, no later than two (2) days after entry of this Order, by first class mail, postage prepaid, or other method reasonably calculated to provide notice of the Sale and the Modified Bid Procedures, and such service shall constitute good and sufficient notice of the sale of the Property, this Order, and the Auction.

H. No person or entity shall be entitled to any expense reimbursement or break-up fee, topping, termination or other similar fee or payment. Any bidder that seeks payment of such fees from the Debtor in connection with any bid shall not be a Qualified Bidder and shall be excluded from the Auction and any subsequent Sale Hearing.

I. Notwithstanding Bankruptcy Rule 6004(h), 6006(d), 7062 or 9014, if applicable or any other local rule or otherwise, the terms of this Order shall be effective and enforceable immediately upon its entry.

J. Any conflict between the terms and provisions of this Order and the Modified Bid Procedures or the attachments thereto shall be resolved in favor of this Order.

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K. This Court shall retain jurisdiction over any matters related to or arising from the implementation of this Order.